

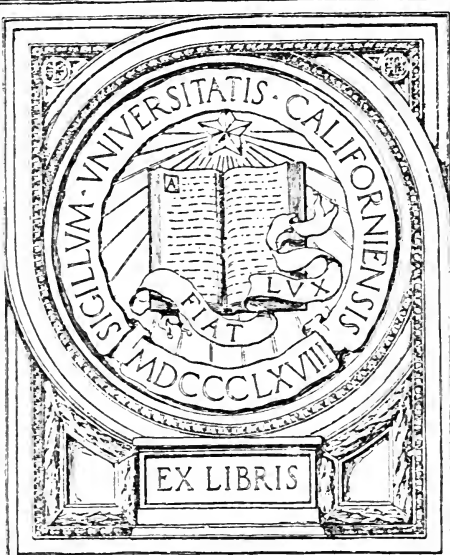
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Boundaries of Colorado.

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***THE BOUNDARIES OF COLORADO***

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By  
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Boulder, Colorado  
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## THE BOUNDARIES OF COLORADO

BY FREDERIC L. PAXSON

The State of Colorado is bounded on the north and south, respectively, by the thirty-seventh and forty-first parallels of north latitude, and on the east and west by the twenty-fifth and thirty-second meridians of longitude west from Washington. The territory inclosed by this rectangle has had a history of remarkable variety and change. It has at various times, in whole or in part, been subject to the jurisdiction of the independent countries, France, Spain, Mexico, Texas, and the United States; and while under the United States it has formed parts of the territorial governments of Utah and New Mexico, Kansas and Nebraska, and of the State of Texas. It is the purpose of this article to trace the external facts in connection with this history of change.<sup>1</sup>

With the acquisition of Louisiana under the convention of April 30, 1803, the territory of Colorado came for the first time within the jurisdiction of the United States. The boundaries of this vast province beyond the Mississippi had never been surveyed, and it is doubtful whether at the time of the transfer they were really known. Certain it is that the terms of the treaty threw no light upon them, for the First Consul was not averse to planting seeds of discord between the United States and Spain. The territory had passed from France to Spain in 1763, from Spain to France in 1800, and now, "with the same extent that it now has,"<sup>2</sup> was delivered by the French Republic to the United States.

The province of Louisiana extended, by all laws of discovery, exploration, and conquest, to the limits of the drainage basin of the Mississippi.<sup>3</sup>

<sup>1</sup> The various boundaries within the United States have been described briefly in *Bulletin of the United States Geological Survey No. 71*, which is a pamphlet by Henry Gannett on the "Boundaries of the United States." This is a second edition, printed in 1900, of *Bulletin No. 13* of 1885. The second edition is fully illustrated with maps; but these are inaccurate in a number of instances and must be used with care. As a whole, the work is extremely useful. All references in this article are to the second edition.

<sup>2</sup> *Treaties and Conventions Concluded between the United States of America and Other Powers*, p. 331.

<sup>3</sup> Hermann, *The Louisiana Purchase* (Washington, 1898), contains an excellent map showing the relations of Colorado to Louisiana and Texas.

Its boundary on the west, had it ever been described, must have followed the summit of the Rocky Mountains from the vicinity of the forty-ninth parallel to the headwaters of the Arkansas River.<sup>1</sup> It is not impossible that the line should have extended even farther south, to the source of the Rio Grande.<sup>1</sup> But, whichever river be accepted as the southern limit of Louisiana, it is certain that by the purchase of this province the eastern half of Colorado became the property of the United States.

By an act of March 26, 1804, Congress provided its first government for the new lands.<sup>2</sup> So much of Louisiana as lay south of the thirty-third parallel became the territory of Orleans, while the remaining portion of the purchase was appended to the territory of Indiana with the name of district of Louisiana.<sup>3</sup> It was not until March 3, 1805, that Congress gave an independent territorial organization to this district, under the same name.<sup>4</sup>

When the territory of Orleans was admitted to the union in 1812, it received for its name Louisiana,<sup>5</sup> and the territory to the north, thus deprived of its name, was called Missouri by the act of June 4, 1812.<sup>6</sup> For a period of seven years this new territory of Missouri stretched from the Mississippi indefinitely to the west. Spain was in no hurry to define the boundaries between her American possessions and those of the United States, and it was not until 1815 that the United States was ready to receive a minister from His Catholic Majesty. The first minister sent by Ferdinand VII after his restoration to the throne of Spain in 1815 was Don Luis De Onis, who entered upon the threefold task of protesting against American intervention in the Floridas, of withstanding the American sympathies for Spain's revolted colonies, and of drawing a line between the respective American territories of Spain and the United States.<sup>7</sup>

The three tasks of De Onis were almost inextricably entangled, and

<sup>1</sup> Hermann, 48, takes this view; and Henry Adams, *History of the United States*, II, 5, shows that France believed this to be the case.

<sup>2</sup> Poore, *Charters and Constitutions*, I, 691; Henry Adams, II, 125.

<sup>3</sup> McMaster, *History of the People of the United States*, III, 23.

<sup>4</sup> Poore, I, 697.

<sup>5</sup> Act of April 8, 1812, Henry Adams, VI, 235; McMaster, III, 375.

<sup>6</sup> Poore, II, 1097; McMaster, V, 570.

<sup>7</sup> Paxson, *Independence of the South American Republics*, p. 114.

it was only after long and patient negotiations with John Quincy Adams, Secretary of State, that a conclusion was reached.<sup>1</sup> While even then the fears of Spain respecting South America were not satisfied. By the treaty of February 22, 1819, Spain, for a consideration, ceded the Floridas to the United States, and a compromise boundary between Louisiana and Mexico was agreed upon. The Louisiana enabling act of February 20, 1811,<sup>2</sup> had fixed for the western boundary of the State the Sabine River up to the thirty-second parallel, and thence due north to the thirty-third parallel. The new treaty started the western boundary of the United States at the same point.<sup>3</sup> Beginning at the mouth of the Sabine River, it followed the western bank of the same to the thirty-second parallel of north latitude; from this point it ran due north to Red River, and followed the course of the river westward to the one hundredth meridian west of London; thence it went due north again to the southern bank of the Arkansas River, followed this bank to the source of the river "in latitude 42 north," and thence ran westward along the forty-second parallel to the Pacific. For the first time a boundary of the United States had been drawn through Colorado.

The territory of Missouri, erected in 1812, lasted until the act of March 6, 1820, to enable the people of Missouri to form a state government, reduced its boundaries to those of the present State of Missouri without the "triangle."<sup>4</sup> The western lands were thus deprived of territorial organization, coming so far as they had government at all under the military rule of the United States army on the frontier. Until the acts of 1850 and 1854, dividing the western lands among Utah, New Mexico, Kansas, and Nebraska, Colorado had no territorial government.

But before 1850 the territory of Colorado was twice extended in its dimensions. By the Spanish treaty its boundaries on west and south were the Arkansas River and the meridian of its source. By the admis-

<sup>1</sup> Morse, *John Quincy Adams*, pp. 111-117; McMaster, IV, 474-83.

<sup>2</sup> Poore, I, 609; Gannett, 110.

<sup>3</sup> *Treaties and Conventions*, p. 1017. After the independence of Mexico had been gained, a treaty was entered into by the United States and Mexico, January 12, 1828, confirming this boundary.—*Ibid.*, 661. The Republic of Texas, by a convention of April 25, 1838, accepted this line and arranged for a joint survey commission with the United States.—*Ibid.*, 1070.

<sup>4</sup> Poore, II, 1102. The State of Missouri was admitted by proclamation, August 10, 1821.—Richardson II, 96.

sion of Texas to the union on December 29, 1845,<sup>1</sup> the territory between this line and that new line of the Rio Grande and the meridian of its source, which Texas claimed as her western boundary, was added to Colorado, while by the treaty of Guadalupe Hidalgo,<sup>2</sup> February 2, 1848, the remaining portion of the territory embraced in Colorado was acquired by the United States.

The division of the territory conquered during the Mexican war and ceded to the United States at its close led to bitter controversy in Congress, between the representatives of the slave-holding and the anti-slavery interests. And the dispute was ended only by the comprehensive measure of Henry Clay, that has come to be known as the Compromise of 1850. By this settlement, the territory gained from Mexico, including certain territory lying east of the Rio Grande and claimed by Texas, was cut into the two new territories of Utah and New Mexico. And between these territories so much of Colorado as lay south of the treaty line of 1819 was divided.<sup>3</sup>

The act creating the territory of Utah is dated September 9, 1850. The boundaries of this territory, which alone of the new lands had any considerable amount of white population, were the thirty-seventh and forty-second parallels, the eastern boundary of California, and the summit of the Rocky Mountains.<sup>4</sup> All of Colorado west of the Rocky Mountains lay within the territory of Utah.

The New Mexico act was a part of the general compromise scheme and was passed on December 13, 1850.<sup>5</sup> The greater portion of the

<sup>1</sup> H. H. Bancroft, *Works*, XVI, 383; Gannett, 24, 111. This Texan boundary was based on the secret treaties of Santa Anna and various resolutions of the Texan congress. Although the title of Texas to this land was not valid as against Mexico, it has always been considered good as against the United States.—Bancroft, XVI, 270, 399; XVII, 454.

<sup>2</sup> *Treaties and Conventions*, p. 681.

<sup>3</sup> This statement is not literally accurate. That portion of Colorado east of the one hundred and third meridian and north of the thirty-eighth parallel was left without a government. In 1854 a portion of this became a part of Kansas territory.

<sup>4</sup> Poore, II, 1236; Bancroft, XVII, 458; XXVI, 453, 454; Gannett, 131.

<sup>5</sup> Gannett, 131. Utah extended to the summit of the Rocky Mountains on the east, and the western boundary of the New Mexico "panhandle" was the summit of the Sierra Madre mountains. If we are to understand by "Rocky Mountains," as we must in this case, the Continental Divide, and by "Sierra Madre" the Front Range, it is evident that between Utah and New Mexico lay a strip of territory bounded on its other sides by the thirty-seventh and thirty-eighth parallels. This piece of land was too far west to be in the old Missouri territory, and hence never came under territorial government until the passage of the Colorado Act in 1861. But in 1850 the territory had not been accurately surveyed, and it is not likely that Congress realized that it was leaving this fragment of uninhabited waste without a government. The name Sierra Madre is no longer applied to the Front Range. For a good case of the old usage see William Gilpin, *Mission of the North American People* (second edition, Philadelphia, 1874), p. 16.

northern boundary of the territory was the southern boundary of Utah, the thirty-seventh parallel. But in the north-east corner of New Mexico was a "pan-handle" extending into the present limits of Colorado. The one hundred and third meridian, which was the eastern boundary of New Mexico, extended north to the thirty-eighth parallel; the line ran west along this parallel to the summit of the Sierra Madre mountains, and south along the mountains to the thirty-seventh parallel. Thus so much of Colorado as lay between the thirty-seventh and thirty-eighth parallels, the one hundred and third meridian, and the Sierra Madre was part of New Mexico.

That portion of Colorado, bounded on the west by the Rocky Mountains and on the south by New Mexico had been without any government since the passage of the Missouri enabling act, when the Kansas-Nebraska measures were taken up in 1854. Here, as in the measures of 1850, the struggle between the slave and free States dictated the terms of the territorial division. By the final agreement, in the act of May 30, 1854, the territory between Missouri and the Rocky Mountains was divided between two territorial governments. A southern strip,<sup>1</sup> lying between the thirty-seventh and fortieth parallels, and bounded on the west by the Rocky Mountains and the New Mexico "pan-handle," became the territory of Kansas. What was left of the undivided territory north of the fortieth parallel and east of the Rockies<sup>2</sup> was established under the territorial government of Nebraska. And now, for the first time, the whole area of Colorado was covered by territorial governments, by Utah, New Mexico, Kansas, and Nebraska.

The settlement of the western States moved forward with great thoroughness until Kansas and Nebraska were reached. Until this time the wave of population had covered the ground evenly, and had not advanced in one direction much more rapidly than in another. But the discovery of gold in Cherry Creek, on the north fork of the Platte, transformed this even movement, and brought about a rush of settlers

<sup>1</sup> Poore, I, 574; Rhodes, *History of the United States*, I, 439, has failed to notice this irregularity in the southwest corner of Kansas; Gannett, 125. The map in Gannett, facing p. 122, gives the incorrect impression that Kansas extended to 36° 30' on the south, and on the west *only* to the Arkansas River and the hundredth meridian; while his map facing p. 126 corrects the former blunder and repeats the latter.

<sup>2</sup> Poore, I, 569; Gannett, 126.

into the gold diggings before actual government had been established there and long before the frontier had reached the Rockies. From this sudden emigration in 1858 came the settlement of Colorado.

The earliest suggestion of a new State to be erected at Cherry Creek, where Denver now stands, came in the autumn of 1858, two weeks after the first miners reached Auraria and when there were hardly two hundred settlers in the whole district. Distance from the seat of territorial government, absence of courts, and the lawless character of much of the mining population made some sort of local organization necessary in the gold camp. And the suggestion of 1858 developed in 1859 into the spontaneous territory of Jefferson. At a preliminary convention held in Denver on April 15, 1859,<sup>1</sup> it was determined to erect an independent government there, and the boundaries within which the new State was to claim jurisdiction were the thirty-seventh and forty-third parallels, and the one hundred and second and one hundred and tenth meridians. The movement for statehood failed, but the constitution of the "territory" of Jefferson which was adopted by the people on October 10, 1859, claimed those boundaries.<sup>2</sup>

The "territory" of Jefferson thus constituted lived a precarious existence for almost two years. At no time, however, was its control of the situation in the Arkansas and Platte Valleys complete. It was admittedly an illegitimate organization, existing without federal authority, and in defiance of the laws of Kansas and Nebraska. Its only justification was the need for a government and the absence of any effective authority; and this excuse became better after Kansas had been admitted as a State with boundaries excluding the gold country.

Most of the southern boundary of Colorado was defined in the Utah and New Mexico acts of 1850. The eastern boundary was first drawn by the act of January 29, 1861, under which Kansas was admitted. And this act accepted the boundary provision of the Wyandotte constitution. Through three constitutional conventions, at Topeka,<sup>3</sup> Lecompton,<sup>4</sup> and

<sup>1</sup> The first number of the *Rocky Mountain News*, April 23, 1859, contains the account of the steps in the formation of a State constitution. Compare also J. C. Smiley, *History of Denver*, p. 309, and his map on p. 310.

<sup>2</sup> *Rocky Mountain News*, October 20, 1859; Hollister, *The Mines of Colorado*, 92; Bancroft, XXV, 406; Smiley, 314; Hall, *History of Colorado*, I, 211.

<sup>3</sup> Poore, I, 580.

<sup>4</sup> Poore, I, 599.

Mineola,<sup>1</sup> the boundaries claimed for the State of Kansas were those of the territory, extending westward to the mountains and New Mexico. But the Wyandotte constitution<sup>2</sup> substituted for this the twenty-fifth meridian of longitude, west from Washington, and the Kansas act accepted this statement of the case.<sup>3</sup> Colorado was for the second time deprived of even the form of a territorial government.

When Kansas was admitted, the flimsy government of the "territory" of Jefferson had nearly run its course. For two sessions that government had conducted a legislature, and its governor had used every effort to make his administration effective. But the men in the mining camps had evaded the jurisdiction of the "territory," and the support of the Denver inhabitants had never been enthusiastic. When the Kansas act cut off Colorado, there was already before Congress and near to completion a bill that was to bring peace and termination to the "territorial" government.

A bill to erect a new territory west of Kansas and Nebraska, out of lands taken from those territories and New Mexico and Utah, had appeared in Congress in the session of 1859-60. But other and stronger interests had prevented the passage of the act at this time and had delivered the work over to the next session. In 1860-61 the act was taken up again and passed.

The Colorado territorial act became a law on February 28, 1861.<sup>4</sup> It accepted as the southern boundary of the territory the thirty-seventh parallel, which had already been drawn between Utah and New Mexico as far east as the Sierra Madre mountains. For the eastern boundary it made use of the western boundary of Kansas, the twenty-fifth meridian from Washington, and continued it north to the forty-first parallel which became the northern boundary of Colorado. On the west Utah was pushed back from the Rockies to the thirty-second meridian to make way for the western half of the new territory. The extravagant claims

<sup>1</sup> Poore, I, 614.

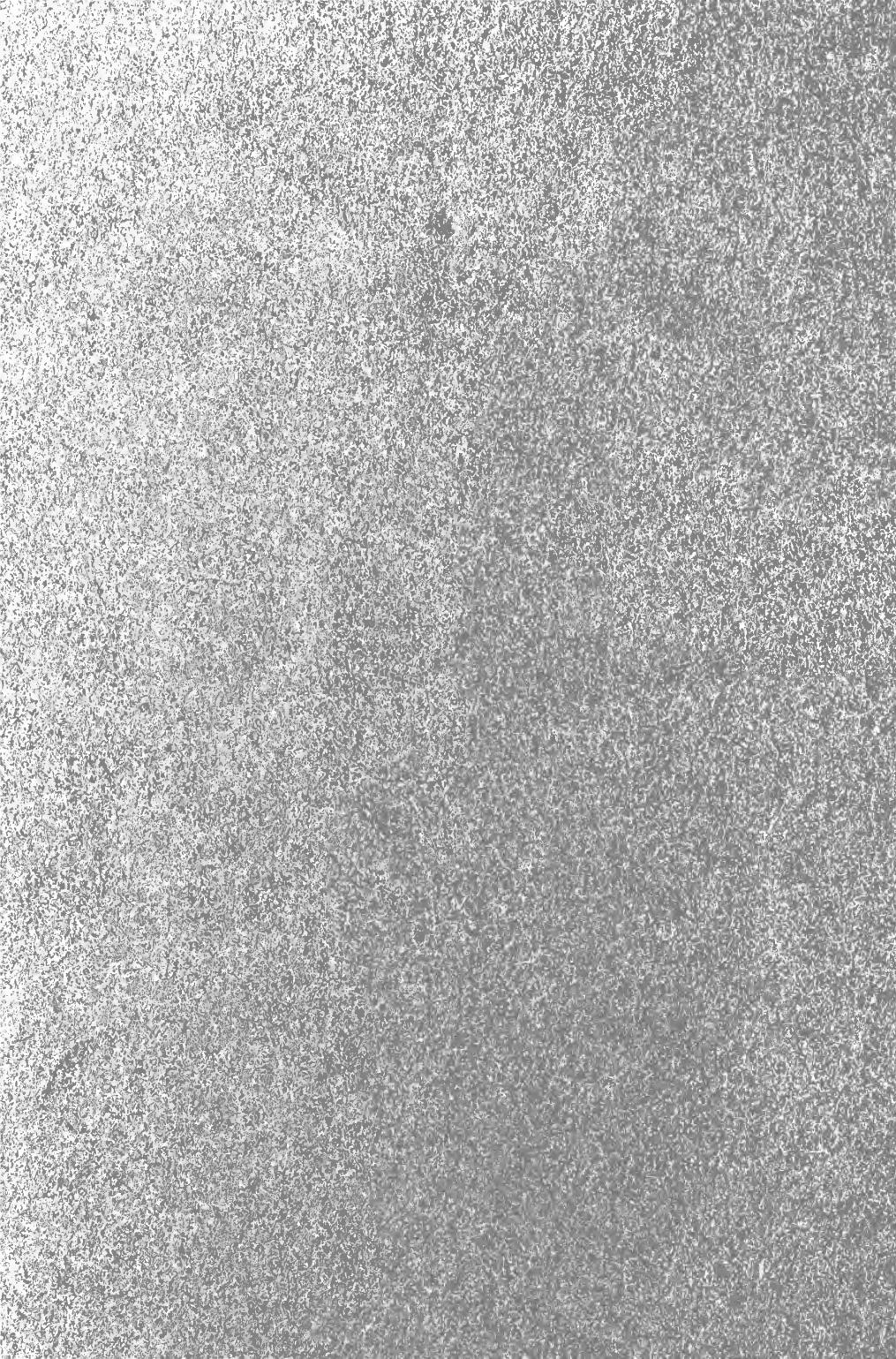
<sup>2</sup> Poore, I, 630.

<sup>3</sup> Gannett, 125.

<sup>4</sup> Poore, I, 212; Gannett, 130; Bancroft, XXV, 413; Hall, I, 262; Blaine, *Twenty Years of Congress*, I, 270. It should be noticed that no portion of Kansas was given to Colorado, as the western end of the former territory was cut off before Colorado was created. And the Wyandotte constitution under which Kansas was admitted, and which first fixed the twenty-fifth meridian as its western boundary, was framed in the summer of 1859 before the idea of a new territory for Colorado had developed in Congress. Cf. Gannett, 125.

of the "territory" of Jefferson to the forty-third parallel and the one hundred and tenth meridian were calmly disregarded. ;

The territory of Colorado existed under those boundaries throughout its history. When it framed a constitution and became a State in 1876, it still retained them.





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